

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015100915
v.	
CAPISTRANO UNIFIED SCHOOL DISTRICT,	
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CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015100409
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On October 8, 2015, Capistrano Unified School District filed a Request for Due Process Hearing in OAH case number 2015100409, naming Student. On October 27, 2015, student filed a Request for Due Process Hearing in OAH case number 2015100915, naming District.

On October 28, 2015, Student filed a Motion to Consolidate case number 2015100409 with case number 2015100915 and to continue the due process hearing dates set in Case Numbers 2015100409 and 2015100915. On October 29, 2015, the parties filed a joint stipulation to consolidate the two cases and continue the mediation, prehearing conference, and hearings dates to dates specified by the parties.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the OAH case numbers 2015100409 and 2015100915 involve common questions of law or fact, specifically, whether District's most recent independent educational program offered Student a free appropriate public education, as District contends, or, as Student contends, whether it failed to offer a FAPE. Consolidation also furthers the interests of judicial economy because the parties are the same and the issues are closely related. Accordingly, consolidation is granted.

#### Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

The parties jointly requested hearing dates which are within 90 days after the original date set in OAH case number 2015100915 and therefore the request is reasonable. Student's motion to continue the hearing demonstrates good cause for a continuance, based on consolidation of the two cases and the parties' joint stipulation to continue all dates in the two matters.

#### ORDER

1. Student's Motion to Consolidate is granted. OAH Cases Nos. 2015100409 and 2015100915 are consolidated.
2. All dates previously set in OAH Case Number 2015100409 are vacated.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the Student's complaint in OAH Case Number 2015100915.
4. Student's Motion to Continue is granted as of the date of this Order. The Mediation in the consolidated cases shall be held on Tuesday, January 5, 2016 at 9:30 a.m., the Prehearing Conference in the consolidated cases shall be held on Friday, February 12, 2016, at 10:00 a.m., and the Due Process Hearing in the consolidated cases shall be held on Tuesday, February 23, 2016 through Thursday, February 25, 2016 at 9:30 a.m. on the first day, and 9:00 a.m. each of the next two days.

DATE: October 30, 2015

/s/

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TED MANN  
Administrative Law Judge  
Office of Administrative Hearings